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October 13, 2000

Ms. Hillary Hess
Regulatory Policy Division
Bureau of Export Administration
Department of Commerce
P.O. Box 273
Washington, DC 20044

Re: Comments to Crime Control Items: Revisions to the Commerce Control
 List, Interim Rule, 65 Fed. Reg. 55,177 - 55,180 (Sept. 13, 2000)

Dear Ms. Hess:

On behalf of Taser International Inc. ("TII"), the undersigned respectfully submit written comments on the above-referenced Interim Rule on Crime Control Items (the "Interim Rule").¹

I. INTRODUCTION AND SUMMARY

For the reasons set forth in more detail below, TII submits that the Bureau of Export Administration (the "Bureau") should reconsider and revise in its final regulation those provisions contained in its Interim Rule:

- (a) Requiring a license, under 15 C.F.R. §742.7(a)(4) and ECCN OE982, for the export and reexport of "technology" exclusively for the "development" or "production" of equipment controlled by OA985—in particular, stun devices—to all countries except Canada; and,
- (b) Requiring a license, under 15 C.F.R. §742.7(a)(4) and ECCN OA985, for the export and reexport of stun devices controlled under OA985 to all countries except Canada.

¹ Pursuant to directions in the Bureau's Proposed Rule, these written comments also set forth the oral comments made by Taser at its meeting with Bureau and State Department officials on October 3, 2000.

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Specifically, there appears to be a significant conflict between the Export Administration Act (“EAA” or the “Act”) and the Interim Rule.² The Interim Rule appears to contravene the Act’s clear provisions that govern exports of crime control items to NATO and other major allies. Further, the Interim Rule does not, on its face, make certain determinations and provide for consultation and reports, as required by the EAA.

As a responsible leader in this industry, TII shares with the Bureau the policy objectives that it believes led to these proposed changes. TII believes, however, that the Bureau’s policy objectives can be met with one of the following proposals:

- Revising ECCNs OA985 and OE982 to lower export licensing controls on certain stun devices and technology, these being stun devices and related technology specifically designed with clearly defined safeguards to reduce the risk of abusive applications;
- Revising the Interim Rules to avoid a blanket licensing approach and adopt an approach that focuses on prohibiting abusive end-uses;
- Revising the Interim Rules to avoid a blanket licensing approach and adopt an approach focusing on prohibiting access to stun devices and related technology by particular end-users in particular countries; and/or
- Revising the Bureau’s proposed approach in light of the wide availability of the technology abroad, and the beneficial uses of the stun device technology as a non-lethal alternative to traditional firearms, batons and other lethal self-defense mechanisms used by police forces around the world.

Finally, in the alternative, TII respectfully submits that the Bureau should add a provision explicitly grandfathering existing manufacturing operations abroad to minimize the adverse -and unexpected-impact of this regulation on U.S. businesses.

II. FACTS

TII produces the Air Taser, a small handheld self-defense system that utilizes compressed air to shoot two small probes. These probes are connected to a handheld launcher that sends a non-lethal electric signal to an assailant, causing the assailant to be temporarily incapacitated.

²

The EAA was continued by the President by Executive Order 12924, and most recently extended on August 3, 2000. 65 Fed. Reg. 48,347 (Aug. 8, 2000).

The Air Taser was carefully designed to reduce the risk of abusive applications.

1. The Air Taser is a one-shot stun device, as cartridges need to be replaced after each use.
2. The wires attached to the Air Taser's probes were carefully designed to short out after extended use.
3. The most recent version of the Air Taser includes a special data storage chip to record each use of the device.
4. TII has conducted medical testing to ensure that its products will not cause long-term injuries or effects to cardiac tissue or pacemakers.
5. Air Tasers contain special identification markers that are discharged whenever the Air Taser is fired. These identification markers render the Air Taser uniquely unsuited to abusive applications because of the thousands of identifying markers that would be left on the scene.

TII produces the Air Taser through a Mexican contractor for cost control reasons. The principal market for the Air Taser is as an alternative to traditional lethal firearms for police forces. With its unique ability to stop an assailant without risk of permanent injury or death, TII has sold the Air Taser to hundreds of police forces in the United States, Canada, and Western Europe.

Because the Interim Rule requires a license for the export of design and production technology to all countries except Canada, the Rule may create substantial difficulties for TII's Mexican manufacturing operations. TII needs to supply this Mexican contractor with technology to support existing manufacturing as well as to design safety and other improvements to the Taser. Moreover, because the Interim Rule requires a license for the export of all stun devices-without distinction as to safety features-to all countries except Canada, it would require TII to obtain a license to export Air Tasers from the United States to police forces in long-term U.S. allies such as the United Kingdom and Sweden. For the reasons set forth below, TII respectfully submits that these additional controls are neither authorized nor warranted.

III. THE INTERIM RULE AND THE MANNER IN WHICH IT WAS PROMULGATED DO NOT APPEAR TO BE CONSISTENT WITH THE EAA AND EXECUTIVE ORDER 12924

TII respectfully submits that the Interim Rule is ultra vires and not in keeping with the requirements of the EAA and Executive Order 12924. Although the EAA expired by its own terms on August 20, 1994, the President continued the Act by Executive Order 12924, citing his authority under the International Emergency Economic Powers Act, 50 U.S.C. §1702. In that Order, the President stated that "the provisions of the Export Administration Act of 1979, as amended, . *shall be carried out under this order so as to continue in full*

force and effect and amend, *as necessary*, the export control system heretofore maintained by the Export Administration regulations issued under the Export Administration Act of 1979, as amended.” (Emphasis added.) Because the President has ordered that the provisions of the EAA “shall be carried out” so as to continue and to amend the export control system reflected in the Export Administration Regulations (EAR), the Bureau may not amend the EAR in a manner inconsistent with the EAA.³

Notwithstanding other statutory authority for the Interim Rule that the Bureau may advance, TII is aware of no authority that could overcome the Act’s specific language that the requirement for a validated license for crime control and detection instruments “shall not apply to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia or New Zealand,” or to other countries designated by the President.⁴ This is a clear prohibition with respect to export licensing requirements affecting “crime control” “instruments and equipment.” In the Interim Rule, the Bureau classifies the stun devices described above as “crime control” items.⁵ TII believes, therefore, that the Bureau may not, consistent with 50 U.S.C. App. §2405(k)(2), apply the proposed licensing controls to NATO countries and major allies such as Japan, Australia and New Zealand.⁶

³ Some courts have held that the President did not have the authority to continue certain EAA provisions, including those provisions governing access to federal courts and the nondisclosure of information under the Freedom of Information Act (“FOIA”). Compare Times Publishing Co. v. United States Department of Commerce, 104 F. Supp. 2d 1361 (M.D. Fla. 2000) (holding Section 12(c) of the EAA could not constitute a valid statutory exemption from disclosure under Section 552(b)(2)(B) of FOIA), with Mark Green v. Department of Commerce, 1977 U.S. Dist. LEXIS 12930 (D.D.C. 1977) (holding that section 7(c) of the EAA of 1969, continued by President Ford in E.O. 11940, was effective to prevent disclosure under FOIA). See also Nuclear Pacific, Inc. v. United States Department of Commerce, 1984 U.S. Dist. LEXIS 16,060 (W.D. Wash. 1984) (holding that the President did not have the constitutional, statutory (under IEEPA) or other inherent authority to extend the EAA to bar access to the federal courts.) However, these decisions have turned on the President’s authority to limit the constitutional and statutory rights of third parties to gain access to courts and confidential information. By contrast, this case turns on the extent of the *Bureau’s authority* to regulate exports — an issue that may be resolved based on the clear language of the Executive Order itself without raising any constitutional or statutory issue. It should also be noted that it is the Bureau’s position, as reported by the District Court in Times Publishing, that “the President has provided for the EAA’s continuing effectiveness through Executive Order 12,924 ” 104 F. Supp. 2d at 1363.

⁴ 50 U.S.C. App. § 2405(n)(2).

⁵ 50 U.S.C. App. §2405(n) **requires** a license for exports to **countries** other than NATO and other major allies only for crime control “instruments and equipment.” It does not, by its terms, **require** a license for exports of related “technology.”

⁶ Indeed, the title to the Proposed Rule, “Crime Control Items: Revisions to the Commerce control List” makes this point clear.

⁷ TII is aware that the Bureau may consider that the prohibition contained in 50 U.S.C. App. §2405(n)(2) only applies to *mandatory* Congressional licensing requirements and that the Bureau may believe that it is authorized to impose additional “*permissive*” licensing requirements on NATO

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TII also believes that the Interim Rule has not fully complied with the Act's procedural and other related requirements. It appears that the Bureau may not have explicitly made the appropriate determinations required for the imposition, extension or expansion of foreign policy controls contained in subsections 2405(b) and (e). The Act provides under Section 2405(b) that the Bureau may impose, *extend, or expand* foreign policy export controls "*only if* [the Bureau] determines that –

(A) such controls are likely to achieve the intended foreign policy purpose, in light of other factors, *including the availability from other countries of the goods or technology proposed for such controls, and that foreign policy purpose cannot be achieved through negotiations or other alternative means;*

(B) the proposed controls are compatible with the foreign policy objectives of the United States and with overall United States policy toward the country to which exports are to be subject to the proposed controls;

(C) the reaction of other countries to the imposition, extension, or expansion of such export controls by the United States is not likely to render the controls ineffective in achieving the intended foreign policy purpose or to be counterproductive to United States foreign policy interests;

(D) the effect of the proposed controls on the export performance of the United States, the competitive position of the United States in the international economy, the international reputation of the United States as a supplier of goods and technology, *or on the economic well-being of individual United States companies and their employees and communities does not exceed the benefit to United States foreign policy objectives;* and

(E) the United States has the ability to enforce the proposed controls effectively. (Emphasis added.)

Moreover, under Section 2405(e), before resorting to the imposition of export controls under this section, the Bureau is required to "*determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.*" (Emphasis added.) Although the Bureau includes such determinations in its annual Foreign Policy Report with respect to all crime control items generally, it is not

and major U.S. allies. As demonstrated by the Interim Rule itself, such an interpretation renders the exemption contained in subsection (n)(2) a virtual nullity and would be disallowed by standard rules of statutory interpretation. The Interim Rule imposes licensing requirements for all countries except Canada. If Congress intended to authorize the Bureau to require licensing of these items for all countries except Canada, it would not have specified that NATO and other major allies should not be subject to licensing requirements for crime control instruments and equipment.

clear whether the Bureau has made these required determinations with respect to the imposition or expansion of foreign policy controls contained in this Interim Rule. As noted in Section 2405(b) above, the requirement for these determination apply not only to the imposition of these controls, but also to the expansion and extension of these controls.*

To our knowledge, the Bureau has also not directly consulted with the affected U.S. industry, and TII questions whether other countries and Congress have been consulted as required by sections 2405(c), (d), and (f). Section 2405(c) provides that “in every possible instance” the Bureau “shall consult with and seek advice from affected United States industries *before imposing any export control under this section*. Such consultation and advice shall be with respect to the criteria set forth in subsection (b)(1) and such other matters as the Secretary considers appropriate.” (Emphasis added.)

There are few U.S. companies involved in the design and manufacture of stun devices, and to TII’s knowledge, none of these companies was directly consulted prior to the imposition of the Interim Rule.” Since there have been no controls on stun device technology for several years, and no controls on exports of stun devices to NATO and other allies for even longer, the Bureau cannot legitimately claim that the rule change was such an urgent matter that it was not “possible” to consult with the U.S. industry in this instance. Indeed, TII wishes to note for the record that, notwithstanding regular contact with the

8 In the Interim Rule, the Bureau has both “imposed” and “expanded” controls on stun devices and technology.

9 The Bureau apparently did consult with the Regulations and Procedures Technical Advisory Committee (RPTAC) on this issue but TII respectfully submits that these consultations did not meet the letter or the spirit of the industry consultation provision. The following details the chronology of that consultation:

- On May 26, 2000, the Department of Commerce, Bureau of Export Administration published a notice of a Regulations and Procedures Technical Advisory Committee meeting to be held on June 13, 2000. That notice did not give any indication that crime control regulations were going to be discussed, and only indicated that “pending regulatory revisions” would be discussed. 65 Fed. Reg. 34 146 (May 26, 2000).
- On June 13, 2000, the minutes of the open session of the RPTAC meeting stated that “a crime control regulation [was] pending.”
- On August 28, 2000, the Department of Commerce, Bureau of Export Administration published a notice of a Regulations and Procedures Technical Advisory Committee meeting to be held on September 12, 2000. This notice again stated only that the agenda Included, among other things, “update on pending regulatory revisions.” 65 Fed. Reg. 52064 (Aug. 28, 2000).
- On September 12, 2000, the minutes of the open session of the RPTAC meeting stated: “The following regulations are currently pending: 1) a crime control regulation is expected September 13. It includes a reorganization of restraint devices for federal record-keeping purposes: discharge items including stun guns and cattle prods will have an increase in license requirements everywhere except Canada.”
- On September 13, 2000, the Interim Rule was published in the Federal Register. 65 Fed. Reg. 55178 (Sept. 13, 2000).

Bureau on crime control licensing matters over the past five years, the Bureau never once informed TII of its plan to revise the rules governing crime control equipment and technology. The first warning of such a rule change occurred when TII's outside counsel contacted TII *after* the publication of the Interim Rule.

In addition, under EAA section 2405(f), the Bureau may not impose, extend, or expand foreign policy export controls until it has consulted with Congress, and, in particular, until it has submitted to Congress a report:

- (A) specifying the purpose of the controls;
- (B) specifying the determinations of the President (or, in the case of those export controls described in subsection (b)(2), the considerations of the President) with respect to each of the criteria set forth in subsection (b)(1), the bases for such determinations (or considerations), and any possible adverse foreign policy consequences of the controls;
- (C) describing the nature, the subjects, and the results of, or the plans for, the consultation with industry pursuant to subsection (c) and with other countries pursuant to subsection (d);
- (D) specifying the nature and results of any alternative means attempted under subsection (e), or the reasons for imposing, expanding, or extending the controls without attempting any such alternative means; and
- (E) describing the availability from other countries of goods or technology comparable to the goods or technology subject to the proposed export controls, and describing the nature and results of the efforts made pursuant to subsection (h) to secure the cooperation of foreign governments in controlling the foreign availability of such comparable goods or technology.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations.

TII is not aware of any such report that may have been submitted by the Bureau. “Again, although the Bureau apparently did submit a Foreign Policy Report 2000, to TII’s knowledge, that Report did not address these issues as they relate to the imposition of new controls on stun device technology and the expansion of controls on stun devices per the Interim Rule.

10 It is also not clear from the face of the Interim Rule that the Bureau consulted with other countries “at the earliest appropriate opportunity” as required by section 2405(d).

Moreover, based on the face of the Interim Rule, it is unclear whether the Bureau met its obligations as to foreign availability contained in section 2405(h). Under this provision, the Bureau is required to “take all feasible steps” to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the exports of comparable goods. Moreover, before extending export controls, the Bureau is required to evaluate the results of these negotiating steps and include those results in the Congressional report. Finally, if the Bureau’s efforts are not successful in obtaining the cooperation of foreign governments within six months of the imposition or expansion of the export controls, the Bureau is thereafter required to take into account the foreign availability of the goods or technology subject to the export controls.

To emphasize the importance of the procedural requirements contained in section 2405(c) (consultation with U.S. industry), 2405(d) (consultation with other countries), and 2405(e) (alternative means determination), Congress included a final provision. Section 2405(r) provides that, “[I]n any case in which the President determines that it is necessary to impose controls under this section without any limitation contained in subsection (c), (d), (e) of this section, the President may impose those controls *only if* the President submits that determination to the Congress, together with a report pursuant to subsection (f) of this section with respect to the proposed controls, *and only if a law is enacted authorizing the imposition of such controls.*” (Emphasis added.)

IV. THE BUREAU SHOULD RECONSIDER ITS DECISION TO IMPOSE CONTROLS ON STUN DEVICE TECHNOLOGY

The EAA requires the Bureau to determine whether its foreign policy controls are “likely to achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls, and that foreign policy purpose cannot be achieved through negotiations or other alternative means.”¹¹

Technology to design and produce stun devices is widely available abroad. This is not surprising since no product-specific controls were imposed on the technology and it was not even listed on the Commerce Control List for several years. Attached as **Annex A** is a list of manufacturers of stun devices outside the United States, including in the People’s Republic of China, Taiwan, and Korea. To TII’s knowledge, none of these manufacturers provide the safeguards TII has engineered to reduce the likelihood of abusive applications.

Given these facts, the Bureau should reconsider whether the proposed technology controls in fact stand any realistic chance of achieving the intended foreign policy purposes of “deter[ing] the development of a consistent pattern of human rights abuses.” or “avoid[ing] contributing to civil disorder in a country or region.” If stun devices are

11 50 U.S.C. App. § 2405(b)(A).

available from many foreign sources, and other potentially abusive devices are widely available, it is difficult to claim that the Interim Rule controls on technology are “likely to achieve” their intended purpose of deterring human rights abuses. If anything, such controls may contribute to the opposite: if the availability of safer products such as the Air Taser is reduced, purchasers are likely to turn to alternatives, which may be more readily used in abusive applications.

Moreover, as noted above, stun devices are currently used by legitimate police forces both in the United States and foreign countries to reduce their reliance on traditional lethal firearms and batons. Thus, the Bureau should reconsider whether it is “distancing the United States from human rights abuses” or in fact distancing itself from an alternative that may actually *reduce* such human rights abuses.

V. THE BUREAU SHOULD TAILOR THE INTERIM RULE TO FURTHER ITS FOREIGN POLICY GOALS MORE EFFECTIVELY

Even if the Bureau does not reconsider the Interim Rule for legal and policy reasons, it should consider revising it to reduce the burden on U.S. industry in keeping with 50 U.S.C. App. § 2405(b)(D). The Bureau relatively easily could tailor the Interim Rule to pursue more closely and achieve more nearly the Department’s foreign policy goals, while reducing the burden on U.S. industry. TII suggests that the Bureau consider the three following alternatives for tailoring the Interim Rule:

(1) **Revisions to the ECCN:** The controls on stun devices and technology do not distinguish between stun devices that have built-in features that reduce the risk of misuse and those that do not. TII’s stun device, called the Air Taser, provides an example of such safety features. As noted above, the Air Taser is a small handheld self-defense system that utilizes compressed air to shoot two small probes. These probes are connected to a handheld launcher that sends a non-lethal electric signal to an assailant, causing the assailant to be temporarily incapacitated.

The Air Taser was carefully designed to reduce the risk of abusive applications. It is a one-shot stun device, as cartridges need to be replaced after each use. The wires attached to the Air Taser’s probes were carefully designed to short out after extended use. The most recent version of the Air Taser also includes a special data storage chip. This data storage chip records every use of the Air Taser, providing police forces a mechanism to check whether officers have used the device once, as intended, or repeatedly, in a potentially abusive fashion. The knowledge that the data storage chip attachment is recording every use of the Air Taser, and thus also deters officers from misusing the device.

In addition, TII has conducted medical testing to ensure that its products will not cause long-term injuries or effects to cardiac tissue or pacemakers. To the best of TII’s knowledge, TII’s foreign competitors can make no such representation. Finally, Air Tasers contain special identification markers that are discharged whenever the Air Taser is fired. These identification markers assist the police to identify the precise Air Taser used in any

crime and thus help to identify the assailant. TII cooperates with police forces in the United States and Interpol and, to date, has been successful in assisting police to obtain convictions in crimes in which an Air Taser was reportedly used.

Finally, it is important to note that these safety features, in addition to deterring misuse outright, also significantly increase the price of the Air Taser. Given the wide availability of potentially abusive devices and their minimal cost, more expensive products like the Air Taser that have been specifically designed for safety are far less likely to be abused or misused.

Notwithstanding substantial differences in such safety devices, all stun devices are similarly treated in the Interim Rule. TII submits that the Interim Rule can be narrowed to reduce the controls on stun devices with safety features while still achieving its foreign policy purposes. This would be consistent with the Bureau's practice of regulating items at different levels based on the ability of those items to contribute to the objectionable end use. For example, as discussed in more detail below, shot-guns with barrels longer than 24 inches are controlled at a lower level than shot guns with 18 to 24 inch barrels because they are more difficult to conceal and have a more targeted discharge and thus have a lower potential to be used for illegal end-uses. For the same reasons, stun devices incorporating safety features should be controlled at a lower level than stun devices without such features.

TII proposes a revised ECCN 0A985 to recognize these differences as follows:

0A985 Discharge type arms (for example, stun guns, shock batons, electric cattle prods, immobilization guns and projectiles) except equipment used exclusively to treat or tranquilize animals and except arms designed solely for signal, flare, or saluting use; and parts, n.e.s.

License Requirements

Reason for control: CC, UN

<i>Control(s)</i>	<i>Country Chart</i>
For stun devices meeting description in (a) regardless of end-user	CC Column 2
For stun devices meeting description in (a) if for sale or resale to police or law enforcement	CC Column 3

For items meeting description in (b) CC applies. A license is required for ALL destinations, except Canada, regardless of end-use¹²

License Exceptions:

List of Items Controlled

Items:

- (a) Stun devices containing at least one of the following characteristics:
 - (i) Designed for use with one-shot expendable cartridges and whose wires burn out within 5 minutes after extended use;
 - (ii) Using a tracking device that permits the identification of the individual stun device used; and
 - (iii) Containing an electronic device that records all uses of the stun device and is not accessible to the end user.
- (b) All other items falling within the list of items controlled in this heading.

OE982 “Technology” exclusively for the “development” or “production” of equipment controlled by OA982 or OA985.

Reason for control: CC, UN

Control(s)	Country Chart
Technology for stun devices meeting description in OA985(a) regardless of end-user	CC Column 2
Technology for stun devices meeting description in OA985(a) if for sale or resale to police or law enforcement	CC Column 3
For all other technology	CC applies. A license is required for ALL destinations, except Canada, regardless of end-use

12 As previously noted, TII believes that the Department of Commerce lacks authority to impose licensing requirements for exports to NATO countries, Australia, and New Zealand.

(2) **Revisions to End-Uses:** The controls on stun devices are purportedly intended to “deter the development of a consistent pattern of human rights abuses, distance the United States from such abuses and avoid contributing to civil disorder in a country or region.” Yet the controls in the Interim Rule impose a blanket licensing requirement on exports and reexports to all countries, except Canada, regardless of end use. As such they are unnecessarily overbroad, and can be narrowed while still achieving their purpose.

In particular, TII submits that the Bureau should consider the approach of the Enhanced Proliferation Control Initiative “EPCI” in requiring licenses for exports and reexports only where the exporter knows or has reason to know that the stun devices will be used in the commission of human rights abuses. In selected cases, the Bureau could also “inform” the exporters of such abuses, or could add the entity in question to the Entities list. The industry could in turn police itself by obtaining detailed information from the ultimate end-user regarding the end-uses in the form of end-user certificates or other assurances.

If such EPCI controls are considered sufficiently strong to reduce the risk of the proliferation of weapons of mass destruction, including nuclear, missile technology and chemical and biological weapons, surely similar controls should be sufficient to reduce the risk of human rights abuses by stun devices that are acting to *reduce* the incidence of lethal force by police forces around the world.

(3) **Revisions to End-Users:** The controls on stun devices and related technology in the Interim Rule place greater restrictions on stun devices, a non-lethal means of self-defense, than it places on shot guns. Shot guns and related technology are controlled only to certain countries listed in CC Columns 1 (18 in-24 inch barrel) and 2 (>24 in barrel), and to police or law enforcement entities in countries listed in CC Column 3 (> 24 in barrel), whereas stun devices and technology are controlled to all countries except Canada, regardless of the end user. Because they are non-lethal, stun devices pose a much lower risk of contributing to human rights abuses and civil disorder than do shot guns: shotguns longer than 24 inches can kill a man at 50 feet; stun guns can only temporarily incapacitate a man at up to 21 feet. Moreover, shot guns with short barrels are not typically used by police forces for legitimate police work; by contrast, stun devices such as the Air Taser are increasingly employed by police forces to reduce the use of lethal force by their officers. Given their much lower potential for serious abuse as well as substantial benefits, the Bureau should consider an approach that controls the export of stun devices and technology only to limited countries (CC Column 2), and the police and law enforcement entities in limited countries (CC Column 3).

VI. THE BUREAU SHOULD GRANDFATHER EXISTING MANUFACTURING OPERATIONS

Finally, TII respectfully submits that the Bureau should add a provision explicitly grandfathering existing manufacturing operations abroad to minimize the adverse — and unexpected — impact of this regulation on U.S. businesses. As noted above in the fact

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section, TII manufactures the Air Taser in Mexican contracting operations. Imposition of technology controls could substantially increase TII's costs, and ultimately might put TII out of business.

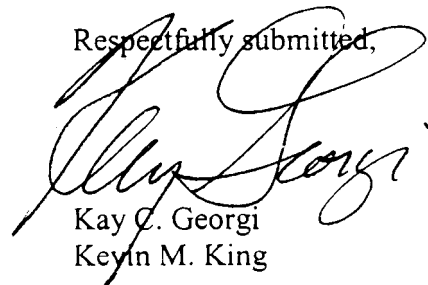
TII notes that provisions making a special exception to protect existing business expectations are not a new concept in the EAR, particularly when significant new controls are unexpectedly imposed. For instance, although it falls short of true "grand-fathering," when the Bureau sanctioned the Indian and Pakistani governments for nuclear testing by imposing sanctions on enumerated governmental entities, it specifically provided for a policy of approval for preexisting business relationships.

* * * * *

VII. CONCLUSION

For the reasons set forth above, TII submits that the new controls on stun devices and associated technology exceed the Department of Commerce's authority under the EAA and are not warranted. Moreover, even if additional controls are imposed, far less burdensome alternatives exist to accomplish the Bureau's foreign policy objectives.

Respectfully submitted,



Kay C. Georgi
Keyin M. King

COUDERT BROTHERS

Counsel to Taser International, Inc.

ANNEX A

COMPANIES MANUFACTURING STUN DEVICES

MANUFACTURERS	COUNTRY OF ORIGIN	CONTACT INFORMATION
Tasertron	United States	1785 Pomona Road Corona, CA 9 1720 (909) 340-0896 Fax (909) 340-089
SK Electronic Corp.	South Korea	119-6 Nae-Dong OJung-Gu Bucheon City Kyunggl-Do South Korea 42 I - 160 Tel: (82 32) 6777711/ (82 344) 9060066 Fax: (82 32) 6777714
Great Cathay Products Mfg. Inc.	Taiwan	Sung-Chiang Road 2fNo. 19 Lane 160 Chung Shan Dist Taipei Taiwan 104 Tel: (886 2) 25434914/ (886 2) 25811817 Fax: (886 2) 25221161/ (886 2) 25236646
King Jaw Industrial Co. Ltd.	Taiwan	Kuen Yang St. No. 25 Lane 152 Nang Kang Dist Taipei Taiwan 115 Tel: (886 2) 27850295/ (886 2) 27857106 Fax: (886 2) 27856870/ (886 2) 27850748
Sang Min International Co. Ltd.	Taiwan	No. 336 Cheng Kung Rd. Feng Yuan City Tai Chung Taiwan 420 Tel: (886 4) 5270577 Fax: (886 4) 5270578
Mars Inward Developing Corporation	Taiwan	Shan Min Rd. Sec 2 11f-1 No. 37 Pan Chiao City Taipei Taiwan 220 Tel: (886 2) 2955 1120 Fax: (886 2) 2955 1697
Motedo Co. Ltd.	Taiwan	Sung Chiang Rd. 1F No. 6-2 Lane 78 Chung Shan District Taipei Taiwan 104 Tel: (886 2) 25814181 Fax: (886 2) 25632407

MANUFACTURERS	COUNTRY OF ORIGIN	CONTACT INFORMATION
Newin Corporation	South Korea	42- 11 Wonmi-Dong Wonmi-Ku Buchon Kyunggt-Do South Korea Tel: (82 32) 6121567 Fax: (82 32) 6111563
State -Run No. 764 Factory Public Security Equipment Business (Producer of the Talon Stun Device)	China	Dagu Road Tianjin Tianj in China 300220 Tel: (86 22) 28309372 Fax: (86 22) 28309372
The Huang Plastic Co. Ltd.	Taiwan	5F, No. 210, Ming Fung St. His Chih Chen Taipei Taiwan 221 Tel: (886 2) 26950488 Fax: (886 2) 2695 1750
Tianjin Camera Co.	China	No. 4 Gutian Road Hongxmg Rd. Hedong District China 300151 Tel: (86 22) 24342071 Ext: 8076/ (86 22) 24342757 Fax: (86 22) 24556940
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